S.B.CIVIL WRIT PETITION NO.6037/2006

Bega Ram
v.
Civil Judge (JD), Churu & Ors.

Date of Order :: 12th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. V.Sanadhya, for the petitioner.
Mr. S.G.Ojha, for the respondents.

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By an order dated 6.10.2006, learned Civil Judge (JD), Churu rejected the application preferred by the plaintiff under Order 8 Rule 9 CPC seeking leave to file a rejoinder. Learned trial court rejected the application on the count that no new fact is made available by the plaintiff applicant warranting rejoinder and the permission to file rejoinder shall create unnecessary complications in the matter. Being aggrieved by the same the petitioner plaintiff has preferred this petition for writ.

This Court by an order dated 19.10.2006 while issuing notice to the respondent defendants stayed further proceedings in the original case. The matter came up today before the Court for orders on an application preferred under Article 226(3) of the Constitution of India for vacation of the interim order referred above.

With the consent of counsel for the parties the petition for writ is heard finally.

From perusal of the averments contained in the application under Order 8 Rule 9 CPC it is apparent that the petitioner wanted to submit rejoinder with regard to averments made in paras 1, 2, 11, 12 and 14 of the written statement and those are apparently new pleas. In view of the averments contained in paras referred above of the written statement the submission of rejoinder appears to be must.

Accordingly this petition for writ is allowed. The order impugned dated 6.10.2006 passed by learned Civil Judge (JD) Churu is quashed. The application preferred by the petitioner under Order 8 Rule 9 CPC is allowed. The petitioner is permitted to file rejoinder as required within a period of 30 days from today.

(GOVIND MATHUR),J.

kkm/ps.